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7 Attorney for Defendant **State Farm**
8 **Mutual Automobile Insurance Company**

9
10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12

13 ALAN SUKIN,

14 Plaintiff,

15 vs.

16 STATE FARM MUTUAL AUTOMOBILE
17 INSURANCE COMPANY, STATE FARM
18 INSURANCE COMPANIES, THE
19 COMMISSIONER OF THE CALIFORNIA
20 DEPARTMENT OF INSURANCE and DOES
21 1-50, inclusive,

22 Defendants.

Case No. C07-2829-JCS

**NOTICE OF MOTION
AND MOTION TO DISMISS**

DATE: July 9, 2007
TIME: 10:00 a.m.
COURTROOM: A (Mag. Judge Spero)

23 TO PLAINTIFF AND HIS ATTORNEYS OF RECORD HEREIN:

24 PLEASE TAKE NOTICE that, at 10:00 a.m. on July 9, 2007 or as soon thereafter as the
25 matter may be heard in Courtroom A of the above-entitled Court, defendant State Farm Mutual
26 Automobile Insurance Company (also erroneously sued herein as defendant State Farm
27 Insurance Companies and hereinafter referred to as "State Farm"), by and through its
28 attorneys, will and hereby does move to dismiss plaintiff's complaint with prejudice.

The motion to dismiss is made pursuant to Rule 12(b)(6) of the Federal Rules of Civil
Procedure on the grounds that the complaint fails to state a claim for relief upon which relief
can be granted against State Farm in that all of plaintiff's claims against State Farm are barred
by the applicable statutes of limitations, that plaintiff's breach of contract claim also involves no

1 justiciable controversy, and that plaintiff's intentional infliction of emotional distress claim also
2 involves privileged conduct and therefore is untenable.

3 The motion to dismiss is based upon this Notice of Motion and Motion; the
4 Memorandum of Points and Authorities filed and served herewith; the Proposed Order lodged
5 and served herewith; all pleadings, papers, records and documents on file in the action; all
6 matters of which the Court may take judicial notice; and such other and further oral and
7 documentary evidence as may be presented at or before the hearing on the motion.

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9 **POHLS & ASSOCIATES**

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12 Robert R. Pohls
13 Attorney for Defendant **State Farm Mutual**
14 **Automobile Insurance Company**
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PROOF OF SERVICE

***Alan Sukin v. State Farm Mutual Automobile Insurance Company, et al.
U.S. District Court, Northern District of California, Case No. C07-2829-JCS***

I, Robert R. Pohls, declare that I am over the age of eighteen years, and not a party to this action or proceeding. My business address is 12657 Alcosta Boulevard, Suite 150, San Ramon, CA 94583. On May 31, 2007, I caused the following document(s) to be served:

NOTICE OF MOTION AND MOTION TO DISMISS



in the manner as provided by Rule 5(b) of the Federal Rules of Civil Procedure by placing a true copy of the document(s) listed above, enclosed in a sealed envelope, addressed as set forth below, for collection and mailing on the date and at the business address shown above following our ordinary business practices. I am readily familiar with this business' practice for collection and processing of correspondence for mailing with the United States Postal Service. On the same day that a sealed envelope is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service with postage fully prepaid.

Ray Bourhis, Esq.
Lawrence Mann, Esq.
Bourhis & Mann
1050 Battery Street
San Francisco, California 94111

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 31, 2007, at San Francisco, California.


Robert R. Pohls

**NOTICE OF MOTION AND MOTION TO DISMISS
Case No. C07-2829-JCS**